

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #11	CCRB Case #: 202003842	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 5:32 PM	Location of Incident: the vicinity of West 47th Street and 7th Avenue	Precinct: 18	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/30/2020 9:25 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 05/30/2020 9:25 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Adrian Zielinski	20521	959408	SRG 3
3. POM Paul Olivares	16326	959860	SRG 3
4. POM Amel Cirikovic	20416	958411	SRG 3
5. POM Paul Hoza	18007	966630	023 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Ernan Vega	02783	948153	SRG 3

Officer(s)	Allegation	Investigator Recommendation
A.POM Amel Cirikovic	Force: Police Officer Amel Cirikovic used physical force against § 87(2)(b)	
B.POM Paul Olivares	Force: Police Officer Paul Olivares used physical force against § 87(2)(b)	
C.POM Adrian Zielinski	Force: Police Officer Adrian Zielinski used physical force against § 87(2)(b)	
D.POM Paul Hoza	Force: Police Officer Paul Hoza used physical force against § 87(2)(b)	
E.POM Amel Cirikovic	Force: Police Officer Amel Cirikovic used physical force against § 87(2)(b)	
F.POM Amel Cirikovic	Force: Police Officer Amel Cirikovic restricted § 87(2)(b)'s breathing.	
G. Officers	Force: Officers used physical force against individuals.	
H. Officers	Force: Officers used physical force against § 87(2)(b)	
I. Officers	Force: Officers used physical force against § 87(2)(b)	

### Case Summary

On May 30, 2020, § 87(2)(b) filed the following complaint with the CCRB via the agency's call processing system. On June 10, 2020, § 87(2)(b) filed a duplicate complaint with the CCRB via the agency's website under reference number 1-1-6959736.

On May 30, 2020, at approximately 5:32 p.m., § 87(2)(b) and § 87(2)(b) were on West 47<sup>th</sup> Street between 7<sup>th</sup> Avenue and Broadway in Manhattan, participating in public demonstrations against police brutality when they observed several arrests made by police officers of other demonstrators. § 87(2)(b) observed PO Amel Cirikovic, PO Paul Olivares, and PO Adrian Zielinski of Strategic Response Group (SRG) 3 along with PO Paul Hoza of the 23<sup>rd</sup> Precinct arrest § 87(2)(b) by grabbing him, taking him down to the ground, holding his arms and upper body, and kneeling on him (**Allegations A to D: Force, § 87(2)(g)**). PO Cirikovic placed his knee on § 87(2)(b) after the latter had already been restrained by other officers on scene. The knee to his back could have restricted his breathing (**Allegation E: Force, § 87(2)(g)**) (**Allegation F: Force, § 87(2)(g)**). § 87(2)(b) allegedly witnessed multiple unidentified officers grab and take down an unidentified male, push and pull § 87(2)(b) during his arrest, and both she and § 87(2)(b) allegedly witnessed three unidentified officers carry an unknown female off the ground while taking her to a police transport vehicle following her arrest (**Allegations G and H: Force, § 87(2)(g)**). § 87(2)(b) further alleged that multiple unidentified officers grabbed and took down § 87(2)(b) and restrained him on the ground (**Allegation H: Force, § 87(2)(g)**).

The investigation identified one arrest and four criminal court summonses associated with this complaint: summonses #§ 87(2)(b), § 87(2)(a) 160.50 and #§ 87(2)(b), § 87(2)(a) 160.50 in which § 87(2)(b), § 87(2)(a) 160.50 was charged with two counts of § 87(2)(b), § 87(2)(a) 160.50 (BR 41-42), arrest #§ 87(2)(b), § 87(2)(a) 160.50 in which § 87(2)(b), § 87(2)(a) 160.50 was charged with § 87(2)(b), § 87(2)(a) 160.50 (BR 43), and summonses #§ 87(2)(b), § 87(2)(a) 160.50 and #§ 87(2)(b), § 87(2)(a) 160.50 in which § 87(2)(b), § 87(2)(a) 160.50 was charged with § 87(2)(b), § 87(2)(a) 160.50 (BR 44-45). The four summonses shared an incident location of West 47<sup>th</sup> Street and 7<sup>th</sup> Avenue and the arrest was listed as occurring at the southwest corner of “Stevens Plaza” and West 47<sup>th</sup> Street, a nonexistent location determined by the investigation to be a clerical error.

The investigation received impertinent cellphone footage from § 87(2)(b) (BR 01-03), impertinent surveillance footage from an external camera on the east side of 7<sup>th</sup> Avenue between West 47<sup>th</sup> Street and West 46<sup>th</sup> Street via the Times Square Alliance (BR 04-07) impertinent handheld footage via NYPD's TARU (BR 08-09), and partially pertinent body-worn camera (BWC) footage via the NYPD's Legal Bureau from PO Christopher Emmart, Sgt. Sukhdeep Toor, PO Jeffrey Robertson, PO Eric Rodriguez, Sgt. Steven Gansrow of SRG 4, Sgt. Patrick Quigley of SRG 5, PO James Rhatigan of the 25<sup>th</sup> Precinct, PO Casean Murray, PO Jose Colon of SRG 2, PO Zielinski, PO Olivares, PO Cirikovic, Sgt. Ernan Vega, Lt. Peter Sotiriou of SRG 3, PO Stephanie Loughran, PO Oscar Mosquera of the 114<sup>th</sup> Precinct, PO Yefersson Salas Martinez of SRG 1, and PO Sam Zitomer of the 7<sup>th</sup> Precinct (BR 10-29).

### Findings and Recommendations

**Allegation A – Force: Police Officer Amel Cirikovic used physical force against § 87(2)(b)**  
**Allegation B – Force: Police Officer Paul Olivares used physical force against § 87(2)(b)**  
**Allegation C – Force: Police Officer Adrian Zielinski used physical force against § 87(2)(b)**  
**Allegation D – Force: Police Officer Paul Hoza used physical force against § 87(2)(b)**

Footage from PO Zielinski's BWC provides the clearest depiction of these allegations (BR 18). The durational timestamps of the footage will be referenced, not the onscreen timestamps. At 1:04, to the front-left of PO Zielinski's camera several officers are depicted grabbing or attempting to grab § 87(2)(b) a black male in a black t-shirt, black pants, and a black du-rag, as § 87(2)(b)

makes apparent movements away from them. No identifying details of those officers are depicted in the footage. PO Zielinski runs to § 87(2)(b) at 1:07 and no clear contact between officers and § 87(2)(b) is depicted until § 87(2)(b) is clearly face down on the ground at 1:10. Multiple unidentified officers' hands are apparently holding him down by his upper body. At 1:12, PO Hoza is depicted holding the back of § 87(2)(b)'s head and then his upper-back. It is apparent that § 87(2)(b) raises his chest off the ground and moves his body in various directions. PO Zielinski holds § 87(2)(b)'s right arm and tells him to provide his hands and stop resisting. PO Olivares hold § 87(2)(b)'s left arm. At 1:18, PO Zielinski and PO Olivares hold each of § 87(2)(b)'s arms behind his back. No more body movement by § 87(2)(b) is apparent. At 1:25, PO Olivares holds § 87(2)(b)'s right arm with his right hand and maintains his other grasp on § 87(2)(b)'s left arm as PO Zielinski takes out zip-ties and begins to secure them on § 87(2)(b). At 1:36, PO Hoza takes his hand off § 87(2)(b) and walks away. At 1:43, PO Cirikovic kneels by § 87(2)(b)'s left shoulder. A voice repeatedly states, "Stop tensing up," and PO Cirikovic holds § 87(2)(b)'s left arm as he moves the arm into a cuffing position behind his back. PO Olivares continues to hold at least one of § 87(2)(b)'s arms as PO Zielinski secures the zip-ties, finishing at 2:05 when officers help § 87(2)(b) to his feet.

Footage from PO Cirikovic's BWC provides an alternate depiction of these allegations (BR 26). The durational timestamps of the footage will be referenced, not the onscreen timestamps. At 4:47, as PO Cirikovic moves west down West 47<sup>th</sup> Street and approaches Broadway holding his baton in front of his chest with two hands, § 87(2)(b) stands in front of him in the street and makes no apparent movements to get out of the street as officers disperse the crowd there. PO Cirikovic continues moving forward and his baton appears to come into contact with § 87(2)(b)'s upper body. § 87(2)(b)'s hands are simultaneously extended toward PO Cirikovic's upper body. At 4:49, § 87(2)(b) takes several steps backward. PO Cirikovic repeatedly orders him to move back as the officer continues walking forward. At 4:52, PO Cirikovic appears to extend his arms while holding his baton toward § 87(2)(b) though the baton is off-screen above the camera. § 87(2)(b) moves his hands up toward the likely location of the baton off-screen. At 4:53, other unidentified officers grab the arrestee's arms. No other clear physicality is depicted. At 4:56, § 87(2)(b) moves away and out of officers' grasps and moves to the right when PO Cirikovic grabs hold of his left arm. Other unidentified officers appear to hold his arms too. At 5:00, PO Cirikovic no longer has a hold on § 87(2)(b) as it appears that § 87(2)(b) moves toward the ground. By 5:04, officers appear place § 87(2)(b) on the ground in a manner that is not specifically depicted. PO Cirikovic remains in the arrestee's immediate vicinity throughout but does not appear to take any actions regarding a takedown. He turns to the right and his camera depicts several civilians in the street in his immediate vicinity. He tells them to move back and paces in the intersection of West 47<sup>th</sup> Street and Broadway. At 5:33, he returns to § 87(2)(b) who is on the ground. PO Cirikovic states, "This is me," and kneels by the § 87(2)(b)'s head. PO Olivares and PO Zielinski hold the arrestee's arms while securing zip-ties on his wrists. PO Cirikovic grabs § 87(2)(b)'s left arm near his wrist. A voice states, "Stop tensing up." Officers secure the cuffs and escort § 87(2)(b) to a transport van.

§ 87(2)(b) was protesting on the north sidewalk of West 47<sup>th</sup> Street between 7<sup>th</sup> Avenue and Broadway in Manhattan participating in public demonstrations with her sister, § 87(2)(b) and approximately 200 other protestors (BR 30-31). There were multiple police officers at the 7<sup>th</sup> Avenue intersection, and she heard multiple orders made over the loudspeaker by officers for civilians to exit the street as many civilians yelled unspecified anti-police chants. § 87(2)(b) heard other civilians screaming for officers to get off § 87(2)(b) at West 47<sup>th</sup> Street and Broadway. She turned to witness § 87(2)(b) already face-down on the ground with PO Cirikovic, PO Olivares, PO Zielinski, and PO Hoza physically restraining him. § 87(2)(b) could not be sure whether PO Cirikovic's knee made contact with § 87(2)(b) due to obstruction by the crowd and could not elaborate on how else he assisted other than generally assisting with the handcuffing. PO Olivares and PO Zielinski each held one of § 87(2)(b)'s arms behind his back. § 87(2)(b) only recalled PO Hoza having a general physical interaction with § 87(2)(b). Within five minutes, all four officers got off § 87(2)(b) now arrested, and escorted him from the scene.

§ 87(2)(b) did not witness this incident (BR 32-33).

§ 87(2)(b) was identified as the victim of these allegations via Mass Arrest Processing Center documentation (BR 34), identifying him as PO Cirikovic's arrestee. Contact information gleaned from that documentation, in addition to public database searches, led to unsuccessful contact attempts by phone, email, and letters and § 87(2)(b) was thus unavailable to the investigation. No criminal case or attorney information was located in association with the summonses issued to § 87(2)(b) during the incident.

No other civilian parties to these allegations were identified by the investigation.

PO Cirikovic responded to the vicinity of West 47th Street and 7th Avenue with PO Zielinski, PO Olivares, their supervisor Sgt. Vega, to assist with the large disorderly group (BR 35-36). Many civilians stood in the street, shouted anti-police statements, and threw objects including bottles containing unknown liquid in the direction of police. For three to five minutes, multiple orders were issued via loudspeaker for civilians to disperse and get out of the street. An unidentified high-ranking officer issued a verbal go-ahead for officers to arrest any civilians breaking the law. PO Cirikovic ran westward with other officers from the intersection and approximately 10 yards past the intersection, he observed § 87(2)(b) in the middle of the street. PO Cirikovic, who was holding his baton with two hands in front of his chest at a slanted angle, told § 87(2)(b) to move back. § 87(2)(b) did not move position and pushed his chest out and broadened his shoulders, as if squaring up for a physical encounter. PO Cirikovic kept advancing and repeated to move for him back and § 87(2)(b) pushed PO Cirikovic's baton with two hands, his fingers bent in a claw-like position, toward the officer's body. Due to § 87(2)(b)'s non-compliance in dispersing and leaving the street, PO Cirikovic decided to arrest him. He did not recall any statements by § 87(2)(b). PO Cirikovic held his baton with his right hand as he was trying to put it away and used his left hand to grab one of § 87(2)(b)'s wrists to initiate the arrest. § 87(2)(b) slipped out of the grasp, possibly due to other civilians grabbing him from behind and pulling him away from § 87(2)(b). PO Zielinski and PO Olivares were in the direct vicinity. Multiple civilians approached from PO Cirikovic's right, potentially surround him and other officers. As his priority was officer safety, PO Cirikovic turned to those civilians and away from § 87(2)(b). The civilians were in arm's reach, yelling anti-police statement and holding various objects in their hands including signs. PO Cirikovic ordered them loudly to move back multiple times. After seven to ten seconds, those civilians complied and posed no further threat and PO Cirikovic turned back toward the street and observed § 87(2)(b) face-down on the ground in the approximately same location as when PO Cirikovic last observed him. PO Zielinski and PO Olivares were on either side of § 87(2)(b) holding his arms and securing plastic zip-ties on him. PO Cirikovic did not see how § 87(2)(b) was placed on the ground. Other than holding the § 87(2)(b)'s wrists and arms, PO Cirikovic did not observe any other physical interactions between § 87(2)(b) and PO Olivares and PO Zielinski. He observed the officers apparently having trouble with placing his wrists together which indicated that § 87(2)(b) was stiffening his arms to prevent being handcuffed. PO Cirikovic knelt with the other officers to assist with the cuffing. PO Cirikovic used at least one hand to ensure the zip-ties were secure and grabbed one of § 87(2)(b)'s arms to do so, feeling a stiffening in the arm. PO Zielinski told him twice to stop resisting. He was not aware of any other officers who physically interacted with § 87(2)(b). Once PO Cirikovic began assisting in securing zip-ties, it took approximately ten seconds to finish the arrest. PO Zielinski and PO Cirikovic helped § 87(2)(b) to his feet by his upper arms and escorted him to a prisoner van on West 48th Street and 7th Avenue.

When presented the above-referenced footage from PO Zielinski's BWC, PO Cirikovic did not recognize any of the officers interacting with § 87(2)(b) while he was still on his feet. At that point, PO Cirikovic had already disengaged § 87(2)(b) and was dealing the other small group of protesters. PO Cirikovic recognized himself as assisting in § 87(2)(b)'s arrest by holding zip-ties and grabbing one of § 87(2)(b)'s arms.

PO Olivares provided consistent testimony to PO Cirikovic with the following additional pertinent details (BR 37). PO Olivares observed approximately three officers which he did not

recognize, attempting to place § 87(2)(b) under arrest by holding his arms while positioned on either side of him. § 87(2)(b) repeatedly moved his arms away from officers' grasps and his back in a flailing motion. Other civilians placed their hands on those officers in apparent attempts to stop them from arresting § 87(2)(b). § 87(2)(b) was able to move away from the officers, eastward, until PO Olivares stood in his way. PO Olivares grabbed § 87(2)(b)'s right arm in an arm bar, with § 87(2)(b)'s arm wedged between both of the officers' arms with PO Olivares' right hand against the § 87(2)(b)'s armpit/shoulder area and his left used to lock the § 87(2)(b)'s arm with his inner elbow. PO Olivares stated this is the usual arm lock he uses to perform a takedown and stated if there were any variations he did not recall; he would have used his left arm to lock § 87(2)(b)'s wrist. § 87(2)(b) attempted to move his arm in various directions as he moved his body back and forth. Using the arm bar, PO Olivares guided § 87(2)(b) toward the ground using weight control. PO Olivares placed § 87(2)(b) on his chest on the ground. PO Olivares believed he kept his left arm locked on § 87(2)(b)'s arm and used his other hand to secure his arm near the wrist behind his back while another officer secured zip-ties on both wrists. PO Olivares had no specific recollection of how he held § 87(2)(b)'s left arm in place but cited his usual tactics in such an arrest. He felt the § 87(2)(b)'s left arm move around but PO Olivares maintained control. PO Olivares was on his knees on the ground to the left side of the § 87(2)(b) crouched over and facing his back so he was not aware of the actions of any other officers but knew at least one other officer assisted. It took less than a minute to arrest him. He did not recall any statements by himself or other officers. He was not aware of § 87(2)(b) ever grappling or grabbing any officers or their equipment and did not observe the initiation of the arrest. When presented the above-referenced footage from PO Zielinski's BWC, PO Olivares could not identify any officers in the footage other than himself. At 1:04, PO Olivares identified himself in the center of the frame not yet interacting with § 87(2)(b) but at the point the officer first noticed him).

PO Zielinski provided consistent testimony to PO Cirikovic and PO Olivares with the following additional details (BR 38). As PO Zielinski moved westward in the street, he observed two unknown officers arresting § 87(2)(b) in the street. § 87(2)(b) was face-down on the ground and the two officers were on their knees beside him on each side near his shoulders, with their knees on the ground. Initially PO Zielinski stated the two officers held § 87(2)(b)'s arms, which were at his side, but then stated he could not speak to any physical interaction between officers and § 87(2)(b) prior to PO Zielinski himself assisting with the arrest. PO Zielinski knelt on the ground on § 87(2)(b)'s right side to assist in the arrest. He grabbed § 87(2)(b)'s right arm with both hands to place it behind his back, but he felt him stiffening his arm to keep it by his side. PO Zielinski told § 87(2)(b) to stop resisting multiple times until he felt the arm loosen and placed it behind § 87(2)(b)'s back. An officer on the other side placed his left hand behind his back. PO Zielinski secured zip-ties on both wrists. It took approximately 20 seconds from the time PO Zielinski got down to his feet to when § 87(2)(b) was successfully restrained. When presented the above-referenced footage from his own BWC, PO Zielinski did not recognize any officers interacting with § 87(2)(b) while he was on his feet and the officer stated he did not observe § 87(2)(b) at that moment as his head was facing right.

PO Hoza did not know where he was or what he was doing at the time of the incident and only knew that he was detailed to assist with the public demonstrations at that time (BR 39). The only other officer in his detail from the 23<sup>rd</sup> Precinct was PO Colleen Willis, under the supervision of a female Sgt. Peralta from an unknown command. He did not recall any other officers he worked with on the incident date. PO Hoza did not participate or assist in any arrests. When presented the above-referenced footage, PO Hoza did not recognize any of the depicted events or individuals and did not recall assisting in any such depicted law enforcement activity.

Sgt. Vega did not observe PO Cirikovic's arrest or any actions by any officers during that arrest (BR 46).

In determining a reasonable use of force, officers must consider factors including severity of the circumstance, subject's actions, duration of the action, immediacy of the perceived threat or

harm to any party, subject's active resistance, subject's attempt of flight to evade arrest, number of subjects and MOS, subject's physical stature, any known violent history, presence of a hostile crowd, and any substance use by the subject at the time NYPD Patrol Guide Procedure 221-01 (BR 40).

§ 87(2)(g)

§ 87(2)(g)

**Allegation E – Force: Police Officer Amel Cirikovic used physical force against § 87(2)(b)**

**Allegation F – Force: Police Officer Amel Cirikovic restricted § 87(2)(b)'s breathing.**

Footage from PO Zielinski's BWC provides the clearest depiction of this allegation (BR 18). The durational timestamps of the footage will be referenced, not the onscreen timestamps. At 1:43, as PO Zielinski and PO Olivares attempts to secure zip-ties on § 87(2)(b)'s wrists, PO Cirikovic kneels by § 87(2)(b)'s left shoulder. He then places his left knee on § 87(2)(b)'s upper back as a voice repeatedly states, "Stop tensing up." PO Cirikovic holds § 87(2)(b)'s left arm as he moves the arm into a cuffing position behind his back. PO Olivares continues to hold at least one of § 87(2)(b)'s arms as PO Zielinski secures the zip-ties, finishing at 2:05 when officers help § 87(2)(b) to his feet. During that time, PO Cirikovic's left knee shifts around § 87(2)(b)'s shoulder blades due to the officer's own body movement while assisting in the cuffing and possible upper-body movement by § 87(2)(b). No statements, if any, by § 87(2)(b) are audible.

§ 87(2)(b) could not be sure whether PO Cirikovic's knee made contact with § 87(2)(b) due to obstruction by the crowd, but stated it appeared that he had his knee on or just above § 87(2)(b)'s back. She did not testify that she observed any indications that § 87(2)(b)'s breathing was restricted.

§ 87(2)(b) did not witness this allegation.

No other civilian parties to these allegations were identified by the investigation.

PO Cirikovic did not recall ever placing a knee on § 87(2)(b)'s back to secure his body, but stated it was possible he did so to secure § 87(2)(b)'s body as PO Zielinski and PO Olivares attempted to secure zip-ties. When presented the above-referenced footage from PO Zielinski's BWC, PO Cirikovic recognized himself as assisting in § 87(2)(b)'s arrest by holding zip-ties and grabbing one of § 87(2)(b)'s arms. He stated he placed his knee on § 87(2)(b)'s back. PO Cirikovic testified that he did not place any pressure on § 87(2)(b)'s back when he did this and was only positioned to effectively handcuff § 87(2)(b) with limited space presented by other officers' positioning. He stated there was no direct law enforcement need to place his knee on his back.

PO Olivares stated that, while restraining § 87(2)(b) on the ground, he was on his knees on the ground to the left side of § 87(2)(b) crouched over and facing his back so he was not aware of the actions of any other officers but knew at least one other officer assisted. When presented the above-referenced footage from PO Zielinski's BWC, PO Olivares could not identify any officers in the footage other than himself and saw another officer place their knee on § 87(2)(b)'s back. At that point, § 87(2)(b) was moving his arm out of other officers' grasp(s) and that by pinning the arrestee by his chest on the ground, it would reduce further resistance and body movement.

PO Zielinski did not see any officer place their knees on § 87(2)(b)'s back. When presented the above-referenced footage from his own BWC, PO Zielinski observed an officer

appear to place a knee on § 87(2)(b)'s back while he was on the ground and he assumed it was because § 87(2)(b) was resisting since placing a knee on a resisting subject's back achieves compliance by keeping them still.

PO Hoza did not recall assisting in any arrests. When presented the above-referenced footage, PO Hoza did not recognize any of the depicted events or individuals and did not recall assisting in any such depicted law enforcement activity.

Sgt. Vega did not observe PO Cirikovic's arrest or any actions by any officers during § 87(2)(b)'s arrest.

In determining a reasonable use of force, officers must consider factors including severity of the circumstance, subject's actions, duration of the action, immediacy of the perceived threat or harm to any party, subject's active resistance, subject's attempt of flight to evade arrest, number of subjects and MOS, subject's physical stature, any known violent history, presence of a hostile crowd, and any substance use by the subject at the time NYPD Patrol Guide Procedure 221-01 (BR 40). Officers shall not apply more force than reasonable to gain control of a subject, including avoiding actions which may result in chest compression, such as kneeling on a subject's back NYPD Patrol Guide Procedure 221-02 (BR 52).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

#### **Allegation G – Force: Officers used physical force against individuals.**

The investigation identified no footage depicting clear misconduct regarding this allegation.

§ 87(2)(b) testified that just south of the intersection of 7<sup>th</sup> Avenue and West 47<sup>th</sup> Street, a group of officers moved southward towards protestors and made multiple arrests. Three to four male officers in uniform and helmets ran up to and surrounded a black male individual in his mid-20s or younger standing at 5'10"-5'11" with an athletic build wearing a green headscarf, a bleached black sweatshirt, § 87(2)(b) Jordan sneakers, and a gray-and-red backpack. Officers grabbed him in a manner § 87(2)(b) could not observe due obstruction by the crowd. She did not believe the individual was resisting other than standing his ground and trying to remain still. The officers pulled the individual to the ground and § 87(2)(b) was no longer able to see what happened due to the crowd and after a couple of minutes, observed the individual being placed on a transport vehicle. § 87(2)(b) later observed a black female in her mid-20s or younger standing at 5'4"-5'6" with an average build and black hair wearing a gray t-shirt and a backpack arrested on West 47<sup>th</sup> Street just west of 7<sup>th</sup> Avenue. An officer came from behind the individual and grabbed her upper body in a manner § 87(2)(b) did not recall and pulled her to the ground toward him. She was on the ground as the officer held her arm, attempting to put it behind her back. The individual

went limp on the ground which made it difficult for the officer to zip-tie her. Another officer came to grab the individual's other arm and both officers secured zip-ties on her. The two officers held the individual under her armpits but could not lift her dead-weight. A third officer came and grabbed one of her legs and all three officers carried her to a transport vehicle. § 87(2)(b) provided no identifying information for any of the officers involved in these allegations.

§ 87(2)(b) only testified to officers carrying the female individual regarding this allegation and was consistent with § 87(2)(b)

The investigation was unable to identify the victims of this allegation with the available documentation and video evidence (01-29).

§ 87(2)(g)

#### **Allegation H – Force: Officers used physical force against § 87(2)(b)**

The investigation identified no footage depicting clear misconduct regarding this allegation.

§ 87(2)(b) testified that just south of the intersection of 7<sup>th</sup> Avenue and West 47<sup>th</sup> Street, she observed § 87(2)(b) in zip-ties on his knees. She did not observe how he was arrested or got to the ground. § 87(2)(b) was surrounded by a group of officers and when he tried to stand, officers held his arm and forced him back to his knees. § 87(2)(b) observed a black female in her mid-20s or younger standing at 5'4''-5'6'' with an average build and black hair wearing a gray t-shirt and a backpack arrested on West 47<sup>th</sup> Street just west of 7<sup>th</sup> Avenue. An officer came from behind the individual and grabbed her upperbody in a manner § 87(2)(b) did not recall and pulled her to the ground toward him. She was on the ground as the officer held her arm, attempting to put it behind her back. The individual went limp on the ground which made it difficult for the officer to zip-tie her. Another officer came to grab the individual's other arm and both officers secured zip-ties on her. The two officers held the individual under her armpits but could not lift her dead-weight. A third officer came and grabbed one of her legs and all three officers carried her to a transport vehicle. § 87(2)(b) provided no identifying information for any of the officers involved in these allegations.

§ 87(2)(b) only testified to officers carrying the female individual regarding this allegation and was consistent with § 87(2)(b)

§ 87(2)(b) was identified as a victim of this allegation via his physical and clothing description in his arrest report (BR 43). Contact information gleaned from that documentation, in addition to public database searches, led to unsuccessful contact attempts by phone and email and § 87(2)(b) was thus unavailable to the investigation. The investigation was unable to identify the additional victims of these allegations with the available documentation and video evidence (01-29).

§ 87(2)(g)

#### **Allegation I – Force: Officers used physical force against § 87(2)(b)**

The investigation § 87(2)(b) with § 87(2)(b)'s cellphone footage depicting him just after his arrest (BR 02). There are no onscreen timestamps. At 0:40, § 87(2)(b) is heard shouting his cellphone number through which the investigation contacted and identified him.

§ 87(2)(b) stated that she observed § 87(2)(b) generally chanting on the sidewalk at the southwest corner of 7<sup>th</sup> Avenue and West 47<sup>th</sup> Street. Two or three officers grabbed § 87(2)(b)'s arms and continuously pulled him toward the ground. § 87(2)(b) resisted by trying to stay upright on his feet but after a few pulls by officers, he was forced to the ground on his



stomach. § 87(2)(b) stopped resisting officers' actions. These officers, with possibly additional officers totaling four to five, went to the ground next to § 87(2)(b). At least one officer put their knee down on his legs and another officer placed his knee on § 87(2)(b)'s lower back. Other than restraining § 87(2)(b) and making him sweaty, § 87(2)(b) did not identify any other physical effect officers' knees had on him. Officers placed § 87(2)(b)'s hands behind his back and zip-tied them before escorting him to a transport vehicle.

§ 87(2)(b) did not address this allegation in her testimony.

On September 21, 2020, after correspondence between § 87(2)(b) and his attorney, § 87(2)(b), in which it was confirmed that § 87(2)(b) had no pending criminal charges related to this incident, § 87(2)(b) stated that § 87(2)(b) did not wish to participate in the investigation.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been party (BR 47).
- This is the first CCRB complaint to which § 87(2)(b) has been party (BR 48).
- PO Cirikovic has been a member of service for five years and has been subject of no other FADO allegations in any other CCRB complaint. § 87(2)(g) (see officer history).
- PO Olivares has been a member of service for five years and has been subject of no other FADO allegations in any other CCRB complaint. § 87(2)(g) (see officer history).
- PO Zielinski has been a member of service for five years and has been subject of two other FADO allegations in one other CCRB complaints with two substantiations (see officer history):
  - 201806934 involved two substantiated allegations of discourteous language. The Board recommended Command Discipline A and the NYPD imposed that recommendation.
  - § 87(2)(g)
- PO Hoza has been a member of service for two years and has been subject of no other FADO allegations in any other CCRB complaint. § 87(2)(g) (see officer history).

### **Mediation, Civil and Criminal Histories**

- This case was not eligible for mediation due to its association with the 2020 demonstrations against police brutality.
- On December 15, 2020, a FOIL request for any related Notices of Claim was submitted to the Office of the New York City Comptroller and will be added to the case file upon receipt (BR 49).
- According to the Office of Court Administration, § 87(2)(b) has no history of criminal convictions within New York City (BR 50).
- According to the Office of Court Administration, § 87(2)(b) has no history of criminal convictions within New York City (BR 51).

Squad No.: 11

Investigator:	<u>Benjamin Shelton</u>	<u>Inv. Benjamin Shelton</u>	<u>5/26/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Edwin Pena</u>	<u>IM Edwin Pena</u>	<u>05/27/21</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date